

APPROVED MINUTES

August 11, 2014

Kittery Town Council
Regular Meeting

Council Chambers

1. CALL TO ORDER: The meeting was called to order at 7 o'clock by Chairperson Thomson.
2. INTRODUCTORY: Chairperson Thomson read the introductory.
3. PLEDGE OF ALLEGIANCE: Chairperson Thomson led those present in the Pledge of Allegiance.
4. ROLL CALL: Answering the roll were Councilors Frank Dennett, Charles Denault, Jeffrey Pelletier, Russell White, Judith Spiller, Jeffery Brake and Chairperson Jeffrey Thomson.
5. AGENDA AMENDMENT AND ADOPTION:

Chairperson Thomson declared the agenda accepted as presented.

6. TOWN MANAGER'S REPORT:

Town Manager Colbert Puff said she signed the second contract with Penta Corporation of Moultonboro, New Hampshire for the sewer infrastructure project in the amount of \$2,864,500 and that the work should be completed by next May. She said this project has to do with the existing pump station and Wastewater Treatment facility.

Town Manager Colbert Puff said the Public Works Dept. had two bid openings on July 24th, one was to purchase a new Backhoe/Loader and the other was the sale of the used Backhoe/Loader. The bid for the purchase of a new loader was awarded to Southworth-Milton in the amount of \$103,000 and the bid for the purchase of the used loader was awarded to Dean Jordan in the amount of \$32,001.

Town Manager Colbert Puff reported that, in response to Council's concern about the Rte. 1 By-pass bridge replacement project and not enough traffic control, the contractor has hired a police officer to monitor the situation from 10:00 a.m. until 3:00 p.m., which was effective last Saturday.

As a reminder, Town Manager Colbert Puff said that Route 236 will be closed until 1:00 p.m. tomorrow.

Town Manager Colbert Puff said that the town has received a Seacoast Energy Initiative grant to the Kittery Community Center for the replacement of the boiler. She said that the Town of South Berwick opened the bids and the installation was awarded to the low bidder, W.H. Demmons. She said the two bids that were received are well over the projected estimate and they will have to use not only the funding from the grant, but also a large portion of the funds will have to be allocated from the 2015 Capital Improvement Program appropriation.

Town Manager Colbert Puff said that, in response to the issue of truck traffic using Rogers Road as an alternative to Route 1 and Walker Street to access the Shipyard, Mr. Timothy Soucie, Region 1 Traffic Engineer from MDOT did come down to evaluate the situation and looked at Rogers Road. She said she included the letter in Council's packet from Mr. Soucie, which was addressed to Chief Short, which basically stated he did not notice any areas on Rogers Road where commercial vehicles would pose a significant safety risk that would warrant reassigning the roadway.

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Town Manager Colbert Puff stated that the Town received a dividend check from Maine Municipal Association for the Workers Comp. fund in the amount of \$12,951 because of our good loss experience and loss prevention programs. She thanked the Safety Committee for auditing and improving performance.

Town Manager Colbert Puff said that Lee Perkins, Rice Public Library Director, will be providing her with the adopted change to their policy on Meeting rooms, once the minutes have been approved and she will report back to Council.

Town Manager Colbert Puff said she will be attending the Maine Town and City Managers Association Conference August 13th and 14th.

Town Manager Colbert Puff said that Councilor Brake had brought up a concern with the Shipyard traffic and the Memorial circle and the problem with emergency vehicles. She cited an example that happened recently where the Police Chief and Fire Chief had to close it for public safety purposes.

Town Manager Colbert Puff said she received an update from FB Environmental Associates and they will be reporting on how water sampling at Spruce Creek is related to the on-going (Sewer) work to identify any sources of contamination in Admiralty Village.

7. ACCEPTANCE OF PREVIOUS MINUTES:

Chairperson Thomson declared the minutes of the July 28, 2014 Regular Meeting accepted as amended.

8. Chairperson Thomson said Council had no interviews this evening for the Board of Appeals or Planning Board.

9. Chairperson Thomson noted that Bill Stockmeyer and Joseph Cuetara were present and read:
a. The Kittery Town Council moves to adopt the resolution entitled "Resolution authorizing Issuance of Bonds and Temporary Notes in Anticipation of Bonds, in the Principal Amount of \$4,403,500 to Fund Sewer Infrastructure Capital Improvement Projects."

CHAIRPERSON THOMSON MOVED THAT THE COUNCIL ADOPT THE RESOLUTION ENTITLED, "RESOLUTION AUTHORIZING ISSUANCE OF BONDS, AND TEMPORARY NOTES IN ANTICIPATION OF BONDS, IN THE PRINCIPAL AMOUNT OF \$4,403,500 TO FUND SEWER INFRASTRUCTURE CAPITAL IMPROVEMENT PROJECTS." SECONDED BY COUNCILOR WHITE.

Chairperson Thomson asked Mr. Stockmeyer and Mr. Cuetara if they had anything to add that would assist Council in their deliberations this evening.

Mr. Stockmeyer approached the podium and introduced himself, saying he was Bond Counsel from Drummond & Woodsum and that this was a follow-up to what was previously enacted by Council. He said the next resolution is the same. Mr. Stockmeyer said he thought Mr. Cuetara would speak to the third item (9c) as to what the next steps on financing would be, and he could give Council more specific details.

Chairperson Thomson said this item is a follow up to a public hearing held by Council on March 25, 2013 and was approved by the town voters on June 11, 2013. There was no other discussion.

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ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR. MOTION PASSES 7-0.

b. The Kittery Town Council moves to adopt the resolution entitled "Resolution authorizing Issuance of Bonds and Temporary Notes in Anticipation of Bonds, in the Principal Amount of \$7,586,825 to Fund Sewer Extension Project."

CHAIRPERSON THOMSON MOVED THAT THE COUNCIL ADOPT THE RESOLUTION ENTITLED, "RESOLUTION AUTHORIZING ISSUANCE OF BONDS, AND TEMPORARY NOTES IN ANTICIPATION OF BONDS, IN THE PRINCIPAL AMOUNT OF \$7,586,525 TO FUND SEWER EXTENSION PROJECT." SECONDED BY COUNCILOR WHITE

Chairperson Thomson said this item is also a follow-up to the public hearing held on March 25, 2013 and was approved by the Town voters on June 11, 2013 for the sewer extension project.

Councilor Dennett said since he had voted against it originally, he will have to keep face and vote against the financing.

ROLL CALL VOTE WAS TAKEN. MOTION PASSED 6-1 (WITH COUNCILOR DENNETT VOTING IN OPPOSITION).

c. The Kittery Town Council, pursuant to the Sewer Infrastructure Capital Improvement and Sewer Extension Projects Resolutions adopted at this meeting, moves to approve the plan of financing presented by the Town's financial advisor and authorizes town officials and the financial advisor to proceed with the issuance of Bond Anticipation Notes for those Projects in the aggregate principal amount of not more than \$9,000,000.

CHAIRPERSON THOMSON MOVED APPROVAL OF THE PLAN OF FINANCING, SECONDED BY COUNCILOR BRAKE.

Mr. Cuetara took the podium and said he is from Moors & Cabot and handles the financing for the Town bonds. He said he was approached last July for funding for the project and was able to get an interest rate of 0.34% for one year to borrow the money. He said he provided a draft of the Notice of Sale, Cash Flow and Chronology of the Bond Anticipation Notes. He said it will be scrutinized by Councilor Dennett.

Mr. Cuetara said the bid proposals for the sale of the notes will be opened on August 27th and they will mature on September 15th 2015. He said typically they issue enough Bond Anticipation Notes for roll-over of the bonds maturity plus one or two years, projected to be excellent and that \$8,974 is the amount of the drawer on October 15th.

Mr. Cuetara said he is recommending \$9,000,000 – with \$2.5 million dollars in new funding. He said that in October 2015, the third round of Bond Anticipation Notes will allow the town to borrow what they need so they don't pay interest on what they do not need. He said they will not provide financing until the project is in service and keep that rate this year.

Mr. Cuetara said he has prepared the notice of sale to respective bidders which will go out tomorrow since August 27th the sale starts and closes on September 27th so the town will have future money to pay for the project.

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Councilor Dennett asked who was the second on the motion. Chairperson Thomson replied Councilor Brake. Councilor Dennett said he will abstain on this vote.

ROLL CALL VOTE WAS TAKEN. MOTION PASSED 6-0-1, WITH COUNCILOR DENNETT ABSTAINING.

10. PUBLIC HEARING:

11. DISCUSSION:

a. Discussion by members of the public:

James Forbes, 31 Mill Pond Road, Kittery Point came to the podium and offered his appreciation to the Council and Board and Committee members who unselfishly serve the community.

Mr. Forbes spoke to the recent decision by the Port Authority to close the piers for squid fishing, which the Kittery Port Authority statute does not give them authority to do. He said if the Port Authority were to close the docks for specific activities, it would mean for all fishing, which would also include lobsters besides squid.

Mr. Forbes believed that this decision was precipitated by one man's over-reaction to an incident that happened on July 30th.

Mr. Forbes said the squid fishermen come to the docks when the tourists are gone and are amazingly peaceful. He said as much as possible they keep the ink (from the squid) in their buckets. He said this causes less wear and tear on the dock than the lobster traps and that the lobstermen make more of a mess than the squid fishermen.

Mr. Forbes said the "squidders" are also licensed fishermen who have a right to use the dock.

Mr. Forbes said, watching the video of the recorded meetings, the comments made by the Board members, in his opinion, reflect a "good ol' boy attitude" bordering on being racist.

Mr. Forbes said he applauds the Acting Harbor Master for Harbor water usage because he found the toilet facilities at the pier closed and they were open this morning. He said the pier is a public facility and it should be open. He also noted that the hose for squidders was not there.

Mr. Forbes said that in his opinion, Kelly Philbrook is the only sane member on the Port Authority who speaks up for the fishermen and they all need to be reminded of that. Mr. Forbes said they need to replace the sign that says "No Squid" with "If you make the mess, clean up the mess" and to make sure the hose is there.

Susan Johnson encourages the Town to provide hearing devices for residents who are hard of hearing so they can hear what is being said at meetings. She said many Chambers have at least two, but Kittery does not provide any for the hearing impaired. She implored Council to make all citizens welcome by making these devices available.

Ms. Johnson went on to say that she has been a resident of the town for 35 years and has written the Council with questions, suggestions, ideas, comments and complaints and has never received a response. She said when she calls the Town Hall, she has to leave a voice mail message, which she

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has done several times – but does not get a call back. She wondered if this is happening to other residents or is she being singled out.

Ms. Johnson said she had sent a report to Council along with photos of the grease sludge that was leaking into the River from the steel rails on the Memorial Bridge, and since she pointed that out, they removed the white gauze and replaced it with silver buckets with holes. Ms. Johnson said they should keep the river clean and thought that was not an adequate solution to the problem.

Ms. Johnson also noted that the bike paths on the Memorial Bridge should be painted a blue/green color to make it safer for both the bicyclists and the motorists. She also thought there should be a white line that divides the path from the lane and wondered why the bike logo is painted on the travel lane as you are leaving Portsmouth. She wanted to know if the Town Council or Manager could look into that.

Robert McDonough, 48 Old Post Road said he has had an issue with the dilapidated building and property that had a dangerous fire. He said he has lodged several formal complaints with dates and is concerned about the safety of the structure as well as property values.

Mr. McDonough said he has called the Police Department and the Code Enforcement Officer but has not gotten a response and this has been going on for five years. He said he has no problem with the small businesses that are there, just with the treatment of the property and the disregard for the public, leaving it in the condition it is.

Bob Harris of Kittery again stated his concern about the traffic lights on Haley Road and Route 1. He said there are 2, only one is a turning lane and one should have an arrow, as many times, people are driving through when there is not a lane there. He said it is a no brainer and should not take much to fix this issue.

Milton Hall said there are no speed limit signs on Badgers Island, coming across the Memorial Bridge and there is a cop sitting there. He said if he gets stopped and there is no sign coming this way, what does he tell him?

Mr. Hall wanted to know what happened to the planks on the Rte. 1 Bypass by Spruce Creek. He said they took them out for one year, but he thought they would be put back. He wanted to know the status.

Mr. Hall wanted to know when Council has a re-appointment like Barry Bush, shouldn't there be an interview with that.

c. Chairperson's response to public comments:

Chairperson Thomson addressed Mr. Forbes and said he would get an answer for him on the squid issue at the town pier.

Chairperson Thomson acknowledged that Council has received her correspondence and asked the Town Manager about the hearing devices.

Town Manager Colbert Puff said she has researched the devices and is looking into getting some.

Town Manager Colbert Puff said she had forwarded Ms. Johnson's comments on the oil to the engineer involved with the Memorial Bridge project and will follow up.

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Chairperson Thomson addressed Ms. Johnson and said that regarding the striping line, this project was between two states and they cannot control what color they use or where the bike logo should go.

Town Manager Colbert Puff said the bike logo is on the lane to indicate there is no bike lane and at that point they are sharing the road with the motorists.

Chairperson Thomson thanked Mr. Harris for his suggestion and asked the Manager to contact MDOT about the traffic lights.

Chairperson Thomson addressed Mr. Hall and said that it was possibly an oversight and that the Speed Limit sign that was on Badger's Island was not put back. He said he did not know what to tell Mr. Hall about Spruce Creek.

Councilor Spiller said the Spruce Creek Committee removed them and the Manager should follow up with that Board.

Chairperson Thomson addressed Mr. McDonough and said that he shares his pain. He added that this process had begun in February 1985 and there was a court order issued. He said this (dilapidated buildings and property) was a subject of discussion in tonight's Executive Session and the Town Attorney will pursue this matter.

12. UNFINISHED BUSINESS - none

13. NEW BUSINESS:

- a. Donations/gifts received for Council disposition
- b. (080214-1) The Kittery Town Council moves to approve the disbursement warrants.

Chairperson Thomson read the amounts for the Town Accounts Payable, the Sewer Dept. and the School payables, for a grand total of \$713,605.90 and asked for a motion.

COUNCILOR SPILLER MOVED APPROVAL OF THE DISBURSEMENT WARRANTS IN THE AMOUNT OF \$713,605.90, SECONDED BY COUNCILOR BRAKE.

Councilor Dennett asked the Chair if he wanted to know if they were reviewed and found to be in order.

Chairperson Thomson asked Councilor Dennett if he had reviewed the Town Warrants and found them to be in the proper format for payment.

Councilor Dennett replied yes. Chairperson Thomson said he reviewed the School's and they were okay.

ALL WERE IN FAVOR BY A VOICE VOTE. MOTION PASSED 7-0.

- c. (080214-2) The Kittery Town Council moves to appoint Jean Treacy to the Shellfish Conservation Committee, as a regular member until April 1, 2015.

Chairperson Thomson said the interview had been done by Councilor White.

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COUNCILOR PELLETIER MOVED JEAN TREACY'S APPOINTMENT TO THE SHELLFISH CONSERVATION COMMITTEE AS A REGULAR MEMBER UNTIL APRIL 1, 2015, SECONDED BY COUNCILOR SPILLER.

Councilor Dennett asked Vice Chair White if he was in favor of the appointment and he replied yes and that he and Chair Dan Clapp both interviewed Ms. Treacy and recommended her appointment.

ROLL CALL VOTE WAS TAKEN AND MOTION PASSED 7-0.

d. (080214-3) The Kittery Town Council moves to sign a Release Deed, releasing the tax liens to 63 English Range Rd. LLC for property located at 9 Old Cutts Road, Kittery, Maine identified as Assessor's Tax Map 60, Lot 20-A.

Chairperson Thomson said the taxes have been paid in full on this property.

COUNCILOR SPILLER MOVED THAT COUNCIL SIGN THE RELEASE DEED, RELEASING THE TAX LIENS TO 63 ENGLISH RANGE RD. LLC FOR PROPERTY LOCATED AT 9 OLD CUTTS ROAD, KITTERY IDENTIFIED AS TAX MAP 60, LOT 20-A. SECONDED BY COUNCILOR PELLETIER. ROLL CALL VOTE WAS TAKEN AND MOTION PASSED 7-0.

e. (080214-4) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Port Authority to interview Barry Bush for his re-appointment to that board until 8/31/19.

Chairperson Thomson said that Councilor Brake is next in line.

Chairperson Thomson offered a suggestion – given that there have been some issues with the Port Authority in recent years, Council needs to start somewhere and the interview is the best chance. He said they discussed this at the last appointment. He suggested that the entire Council interview the member and the first person on the waiting list.

Councilor Spiller wanted to know if it would be at the same time.

Chairperson Thomson responded yes.

Councilor Dennett said that Council would have to change its rules which specifically state how interviews should be conducted. He said everyone has to have a fair shot and it can be done, but the rules have to be changed first.

Councilor Denault said he has heard two answers – and it has been brought to his attention that there was, and was not, information received on term limits on the Port Authority that the term cannot be extended for over 2 terms, which was done a couple of years ago.

Mr. Forbes requested to approach the dais and Chairperson Thomson agreed. He handed the Port Authority Rules and Regulations to the Town Manager. He said their rules say they cannot serve more than two years without a year in between.

Councilor Spiller corrected Mr. Forbes' statement to be two consecutive terms.

Councilor Denault said if that is the case, there is no need for an interview.

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Mr. Forbes told Council they should watch the last two meetings of the Port Authority and they will see why he is upset. He thought it is time for a change.

Councilor Denault said he has been watching their meetings.

Councilor Spiller said at the meeting before tonight, they had a discussion on the appointment of Kelly Philbrook and she thought they wanted Bob Melanson, Port Authority Chair to meet with Council and the Port Authority members in a workshop.

Councilor Denault said he still has an issue with receiving updates from the Port Authority Chair.

Mr. Forbes said the Port Authority has a workshop scheduled this month.

Town Manager Colbert Puff said that the Port Authority may have their rules, but the Town Council is the appointing authority.

Councilor Dennett asked the Town Clerk if she could shed some light on this subject.

Maryann Place said she checked the State statute and it says Port Authority members serve five year terms. She also checked Title 4 and found nothing in there. She looked at the Port Authority Rules and Regulations and did not see anything.

Councilor Pelletier said that Council should not proceed until they meet with the Port Authority to discuss some of the issues and what needs to happen. He said with that in mind, this item should be deferred until Council has had an opportunity to meet with the Port Authority and take up appointments at a later date.

Chairperson Thomson wanted to know if Councilor Pelletier was proposing a motion to postpone action on this item. Councilor Pelletier replied yes.

Councilor White said according to 16.1.6.1, Appointment and Composition, under Port Authority, it mentions this and also on the Town website.

Councilor Pelletier asked if there was a date.

Councilor White replied no.

Councilor Spiller said under Title 16 there is a date. She said this is some recodification issue that got out of hand.

Councilor Denault asked if there were other interested applicants on the Port Authority waiting list.

Chairperson Thomson responded he was sure there are. Councilor Spiller answered yes.

Chairperson Thomson asked Councilor Dennett if this selection procedure was part of Council rules.

Councilor Dennett replied yes, it is part of their rules, which Council adopts each year. He said he does not see anything in the Port Authority Rules and Regulations (regarding term limits).

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Councilor Pelletier recommended postponing action to re-appoint Mr. Bush until after the Council had a workshop with the Port Authority. Chairperson Thomson said Council would meet with the Port Authority at 6 pm on September 8th, before their regularly scheduled meeting.

After a brief discussion, Council formally postponed action to re-appoint Barry Bush to the Port Authority until their regularly scheduled meeting of September 22nd.

14. COUNCILOR ISSUES OR COMMENT:

Councilor Brake – none

Councilor Spiller said, back in the Spring, at a budget workshop, the Public Works Dept. Commissioner spoke about a road management plan and wanted to know if the Manager ever received it. She said Council should look at it, since they will be discussing capital improvement projects, they should be looking at roadways.

Town Manager Colbert Puff said they will be reviewing that.

Councilor Spiller asked if anything addresses bike safety?

Town Manager Colbert Puff replied no, just pavement safety.

Councilor Spiller wanted to mention Parks, specifically Fort Foster and the Black Swallow wart, which is an invasive species and she is concerned about maintaining the adversity of this plant.

Councilor Spiller also wanted to mention parking at Seapoint Beach. She said she goes out in the evening and typically at the beach she sees two to four vehicles with out-of-state plates where there is parking for cars without stickers, but frequently, there have been vehicles with out-of-state plates.

Councilor Spiller said that on Sunday night, she met two men from Massachusetts and told them they will get ticketed for parking at the beach with no sticker. She said one of the men said they have never seen any Police Officers down there and she wanted them to monitor the situation more closely.

Councilor White said that Councilor Spiller already addressed the issue of parking at Seapoint Beach, but he wanted to bring up signs, especially moveable signs and he sent an e-mail to the Chair of the Planning Board about it, since a simple amendment to the ordinance would deal with this issue. He said that he passed on some citizen complaints to the Planning Board chair.

Councilor Dennett – none

Councilor Denault said that he gets lots of calls about speeding on State Road. He said that this is a big issue and brought up the speed trailer, which apparently is not being used. He said that the Police Department spent \$15,000 on it and used it a couple of days on Stevenson Road. He said he would like to see it used.

Councilor Denault said citizens have been complaining about calling the Municipal Office and not getting a response from said office, so he called and did not get a response. He suggested getting rid of the automated response part of the phone system and putting a person back in the lobby.

Councilor Denault said he still hasn't seen any bids on the {Port Authority} boat and he would like to see that. He said he has not been able to find it.

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Councilor Denault said he would like to do a review of contractors for the Municipal Office building and would like Council to discuss this in a workshop. He said he has heard from contractors who weren't able to bid at one time, but never were given the opportunity again because the same contractors are being used over and over again to do work for the town, i.e. electrical, plumbing, legal. He thought there should be a little more transparency so that the town can be assured they are getting the best bang for their buck.

Councilor Denault said Council should make sure they are watching the bid process because we have other contractors in town and they should be reviewing the pricing structure. He said he would like to see a list of bidders on the website and thought there should be an annual review. Councilor Denault said he does not want to be the only one who always brings this matter up and would like input from the other Councilors on what they think about this issue.

Councilor Denault said last week he mentioned Matt Dodge who passed away, who was a close personal friend, but he forgot to mention Martin Babcock and Megan Waldron, who also passed away and would like to offer condolences to the families.

Chairperson Thomson asked Councilor Denault if he wanted the Town Manager to do a request for bids, regarding a rate, for electrical and plumbing for the Municipal building.

Councilor Denault said that it's not just the Municipal building, it's other departments in town too, like the Recreation department. He said it seems to be the same people and we should be looking into that. He asked without overseeing this bid process, where do the prices go.

Chairperson Thomson wanted to know if this would apply to the same person doing repair work, like on the Police Department vehicles.

Councilor Denault replied yes, and maybe it would be kept in line with other contractors who could do the work. He said if we could get good quality people coming in, he thought the town should allow it and they should not be having a "forever" contract with someone for town work. He said this should include everything the town does.

Town Manager Colbert Puff thought it was a great idea and was one of her goals. She will do this for internal knowledge between the departments and she has another meeting at the end of the month and will bring this up.

Councilor Denault said they have to look at everything and maybe they could not do a bid at this time, but we should open this up to other contractors.

Chairperson Thomson said he was personally anticipating a horror show with this construction out here on Route 236 and the traffic circle, but they seem to be working at break neck speed. He thought they were doing a good job in the way it's been handled.

Chairperson Thomson reminded everyone about the Workshop on August 18th at 6 pm with the CIP Committee to discuss the infrastructure.

15. COMMITTEE AND OTHER REPORTS:

- a. Communications from the Chairperson
- b. Committee Reports - NONE

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16. EXECUTIVE SESSION – none

17. ADJOURNMENT:

COUNCILOR SPILLER MOVED TO ADJOURN THE MEETING AT 8:10 P.M., SECONDED BY COUNCILOR DENAULT. ALL WERE IN FAVOR BY A VOICE VOTE. MOTION PASSES 7-0.

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